

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 JANA L. TUTON  
Supervising Deputy Attorney General  
3 ROBERT C. MILLER  
Deputy Attorney General  
4 1515 K Street, Suite 511  
P. O. Box 944255  
5 Sacramento, CA 94244-2550  
Telephone: (916) 324-5161  
6

Attorneys for Complainant  
7

8 BEFORE THE DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the )  
12 Accusation Against: )

No. D-5151

STIPULATION IN SETTLEMENT

13 AHMAD S. MAHAYNI, M.D. )  
P. O. BOX 72 )  
14 San Clemente, CA 95672 )

15 Physician's and Surgeon's )  
Certificate No. A-36427 )  
16

Respondent. )  
17

18 Respondent Ahmad S. Mahayni, M.D., through his counsel  
19 Sidney Mannheim Jubien, and the Medical Board of California,  
20 Division of Medical Quality, through its counsel Deputy Attorney  
21 General Robert C. Miller, do hereby enter into the following  
22 stipulation:

23 1. Dixon Arnett, Executive Director of the Medical  
24 Board of California (hereinafter "Board") filed amended  
25 accusation number D-5151 solely in his official capacity.

26 2. On March 9, 1981, the Board issued physician and  
27 surgeon certificate number A-36427 to Ahmad S. Mahayni

1 (hereinafter "respondent"). The certificate was in full force  
2 and effect at all times pertinent herein.

3 3. Respondent has read and understands the charges  
4 contained in the accusation. Respondent has been advised by his  
5 counsel, Ms. Jubien, of the charges and possible defenses.  
6 Respondent understands that those charges, if found to be true,  
7 constitute cause for disciplinary action.

8 4. Respondent understands that he has a right to a  
9 hearing on the charges contained in the accusation, to  
10 reconsideration, to appeal, and to any and all rights accorded  
11 him by the Administrative Procedure Act and Code of Civil  
12 Procedure. Respondent hereby freely and voluntarily waives those  
13 rights in order to enter into this stipulation as a resolution of  
14 the pending accusation against him.

15 5. It is expressly understood by the parties that the  
16 admissions made herein are for the purposes of this proceeding or  
17 other proceeding before the Board and may not be used for any  
18 other purpose.

19 6. Subject to the proviso in item 5 above, respondent  
20 admits as true the allegations contained in accusation number  
21 D-3151.

22 7. Based on the waivers and admissions made herein,  
23 the Division of Medical Quality of the Board may issue the  
24 following decision:

25 Physician and surgeon certificate number A-36427,  
26 heretofore issued to Ahmad S. Mahayni, M.D., is hereby revoked;  
27 provided, however, that said revocation is stayed, and respondent

1 is placed on probation for a period of five (5) years upon the  
2 following terms and conditions:

3 (A) As part of probation, respondent will not serve  
4 any actual suspension from the practice of medicine.

5 (B) Within sixty (60) days of the effective date of  
6 this decision, respondent shall take and pass an oral or written  
7 exam, in a subject to be designated and administered by the  
8 Division or its designee. If respondent fails this examination,  
9 respondent must take and pass a re-examination consisting of a  
10 written as well as an oral examination. The waiting period  
11 between repeat examinations shall be at three-month intervals  
12 until success is achieved. Respondent shall pay the cost of the  
13 initial examination and any subsequent re-examination.

14 If respondent fails the first examination respondent  
15 shall cease the practice of medicine until the re-examination has  
16 been successfully passed, as evidenced by written notice to  
17 respondent from the Division. Failure to pass the required  
18 examination no later than 100 days prior to the termination date  
19 of probation shall constitute a violation of probation.

20 (C) Within thirty (30) days of the effective date of  
21 this decision, and on a periodic basis thereafter as may be  
22 required by the Division or its designee, respondent shall  
23 undergo a psychiatric evaluation (and psychological testing, if  
24 deemed necessary) by a Division-appointed psychiatrist who shall  
25 furnish a psychiatric report to the Division or its designee.

26 If respondent is required by the Division or its  
27 designee to undergo psychiatric treatment, respondent shall within

1 thirty (30) days of the requirment notice submit to the Division  
2 for its prior approval the name and qualifications of a  
3 psychiatrist of respondent's choice. Upon approval of the  
4 treating psychiatrist, respondent shall undergo and continue  
5 psychiatric treatment until further notice from the Division.  
6 Respondent shall pay all costs of testing and treatment.  
7 Respondent shall have the treating psychiatrist submit quarterly  
8 status reports to the Division.

9 (D) Within sixty (60) days of the effective date of  
10 this decision, respondent shall submit to the Division for its  
11 prior approval a course in Ethics, which respondent shall  
12 successfully complete during the first year of probation.

13 (E) Within ninety (90) days of the effective date of  
14 this decision, and on an annual basis thereafter, respondent  
15 shall submit to the Division for its prior approval an  
16 educational program or course to be designated by the Division,  
17 which shall not be less than forty (40) hours per year, for each  
18 year of probation. This program shall be in addition to the  
19 Continuing Medical Education requirements for re-licensure.  
20 Following the completion of each course, the Division or its  
21 designee may administer an examination to test respondent's  
22 knowledge of the course. Respondent shall provide proof of  
23 attendance for sixty-five (65) hours of continuing medical  
24 education of which forty (40) hours were in satisfaction of this  
25 condition and were approved in advance by the Division.

26 (F) During probation, respondent shall have a third  
27 party present while examining or treating female patients.

1 (G) Respondent shall obey all federal, state and local  
2 laws and all rules governing the practice of medicine in  
3 California.

4 (H) Respondent shall submit quarterly declarations  
5 under penalty of perjury on forms provided by the Division,  
6 stating whether there has been compliance with all of the  
7 conditions of probation.

8 (I) Respondent shall comply with the Division's  
9 probation surveillance program.

10 (J) Respondent shall appear in person for interviews  
11 with the Division's medical consultant upon request at various  
12 intervals and with reasonable notice.

13 (K) In the event that respondent should leave  
14 California to reside or practice outside the state, respondent  
15 must notify the Division in writing of the dates of departure and  
16 return. Periods of residency or practice outside California will  
17 not apply to the reduction of the probationary period.

18 (L) Upon successful completion of probation,  
19 respondent's certificate will be fully restored.


20 (M) If respondent violates probation in any respect,  
21 the Division, after giving notice and opportunity to be heard may  
22 revoke probation and carry out the disciplinary order that was  
23 stayed. If an accusation or petition to revoke probation is  
24 filed against respondent during probation, the Division shall  
25 have continuing jurisdiction until the matter is final, and the  
26 period of probation shall be extended until the matter is final.

27 / / /

1           8.    Respondent may not withdraw this stipulation prior  
2 to the Board's formal action on the stipulation. In the event  
3 this stipulation is not adopted by the Board, it shall have no  
4 force or effect on any party.

5 DATED: 8/23/93

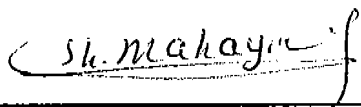
6 DANIEL E. LUNGREN, Attorney General  
7 of the State of California  
8 JANA L. TUTON  
9 Supervising Deputy Attorney General

10   
11 ROBERT C. MILLER  
12 Deputy Attorney General

13 Attorneys for Complainant

14 DATED: Aug. 20, 1993   
15 SIDNEY MANNHEIM SUBIEN, ESQ.

16 Attorney for Respondent

17   
18 DATED: 18 Aug 1993  
19 AHMAD S. MAHAYNI, M.D.

20 Respondent  
21  
22  
23  
24  
25  
26  
27

Attorneys for Complainant

In the Matter of the Accusation  
Against:

AHMAD S. MAHAYNI, M.D.  
P.O. Box 72  
San Clemente, California 92672  
  
California Physician and  
Surgeon Certificate  
No. A36427

**Respondent.**

1. Complainant Dixon Arnett makes and files this accusation solely in his official capacity as Executive Director of the Medical Board of California (hereinafter referred to as the "Board") and not otherwise.

1.

1           3. Under Business and Professions Code section 2234,  
2 the Division of Medical Quality shall take action against any  
3 licensee who is charged with unprofessional conduct.

4           4. Under Business and Professions Code section 2305,  
5 the revocation, suspension, or other discipline by another state  
6 of a license or certificate to practice medicine issued by the  
7 state shall constitute unprofessional conduct against such  
8 licensee in this state.

9           5. Respondent has subjected his physician and surgeon  
10 certificate to discipline under Business and Professions Code  
11 sections 2234 and 2305 in that on or about June 15, 1992, the  
12 State of Florida, Department of Professional Regulation suspended  
13 Dr. Mahayni's medical license for: 1) inappropriate vaginal  
14 examination of female patients without the use of gloves, 2)  
15 inappropriate repeated rubbing of a patient's breasts with the  
16 physician's arms when breast examination was not relevant to the  
17 patient's complaint, 3) inappropriate comments to a female  
18 patient, 4) failure to offer privacy to the patient while she was  
19 disrobing and; 5) failure to request a standby during  
20 examinations. Respondent's license is suspended until such time  
21 as he is able to establish his ability to practice medicine with  
22 skill and safety, including a favorable psychiatric evaluation.

23           WHEREFORE, complainant prays a hearing be held and that  
24 the Medical Board of California make its order:

25           1. Revoking or suspending physician and surgeon  
26 certificate No. A36427, issued to Ahmad S. Mahayni, M.D.

27           2. Prohibiting Ahmad S. Mahayni, M.D. from supervising



1 physician's assistants.

2 3. Taking such other and further action as may be  
3 deemed proper and appropriate.

4 Dated: April 2, 1993

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27



DIXON ARNETT  
Executive Director  
Medical Board of California  
Division of Medical Quality  
Department of Consumer Affairs  
State of California

Complainant

03573160-  
SA93AD0258  
Kaye Antel-Berenson

ORDER

The attached Stipulation in Settlement in case number D-5151 is hereby adopted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter and shall become effective on 21st day of January, 1994.

IT IS SO ORDERED this 22nd day of December, 1993.

DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA

By: \_\_\_\_\_

*Theresa L. Claassen*  
THERESA L. CLAASSEN  
Secretary